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# Passed, regulated, or applied? The different stages of emigrant enfranchisement in Latin America and the Caribbean

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## ABSTRACT

When are emigrants really enfranchised? Lengthy lags exist between some reforms that de jure introduced external voting and their application. In the blooming literature on emigrant enfranchisement, these lags remain unexplained. We argue that this hampers our understanding of enfranchisement processes as having different legal and political stages. With data on Latin American and Caribbean states since 1965 until the present, we investigate why some states in this region have delayed the regulation and application of external franchise while others have implemented it right after enactment. We propose hypotheses to understand these reforms as episodes marked by different contexts, engineered by different agent coalitions and embedded into larger processes of political change. In particular, we suggest that enfranchisement processes are composed of three stages: enactment, regulation, and first application. Our findings suggest that the process of adoption of external voting is shaped by the legal mechanism of enactment and the stability of political coalitions.

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**KEYWORDS** External voting; emigrants; transnationalism; franchise; diaspora

## Introduction

As Caramani and Grotz put it boldly in their introduction of the special issue “Voting rights in the age of globalization” published in 2015 in this very journal, “modern democracy is unthinkable without universal suffrage”.<sup>1</sup> Although there is a consensus regarding the essential role of universal suffrage for democracies, the convention of what “universal suffrage” entails is still very much evolving.<sup>2</sup> After the extension of suffrage to women, ethnic and religious minorities and all economic and educational groups, restrictions remain based on age, sanity, law-abidingness, citizenship and residence.<sup>3</sup> With the intensification of globalization, the restrictions based on residence are increasingly contested<sup>4</sup> and more and more countries have enfranchised non-citizen residents to the point that, according to some, we might be witnessing a new convention of what we understand as “universal suffrage”.<sup>5</sup>

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Extensions of suffrage only become true when the jure changes in electoral regulations are applied in actual elections. But this does not always follow. For example, in 2012, Nicaraguan citizens living abroad were granted the right to vote in home elections, which is significant for a country whose share of the population living abroad surpasses 12% and contributes substantially to its capital inflows. However, six years later, Nicaraguans abroad have not been able to exercise that right; it is not even clear under what conditions their votes would be cast and counted. Can we say that Nicaraguans abroad are enfranchised? Case researchers will say that Nicaragua seems temporarily stuck in its enfranchisement process. For comparative researchers, however, the answer is central to counting Nicaragua within a trend of cases that have enfranchised emigrants or among those that have not. Striking a balance between case and comparative research, the issue about determining the completeness of this policy outcome<sup>6</sup> is about much more than properly coding a yes or no. This is a substantial issue for enfranchisement studies at large because the length and number of steps involved from the enacting to applying enfranchisement (to emigrants as well to other disenfranchised groups) introduces additional room for tinkering with a reform and changing its scope by way of secondary regulation or even by multiple rounds of re-regulation, as Turcu<sup>7</sup> has recently shown.

In some protracted enfranchisement processes the lags are so salient that some scholars have even suggested that political intention is to blame<sup>8</sup> but this has not been verified comparatively. It is clear that a truncated enfranchisement is not really comparable to a fully implemented one; the former suggests a cheap move to grant rights only to stop short of applying them. Yet, the fuzziness in the literature about this has led to datasets with different time references to mark the same enfranchisement and to test hypotheses (not unlike the discussion on measures of democracy by Beckman 2008).

Experts on periodization remind us that while some episodes of interest seem contained in their occurrence and lend themselves to straightforward examination and comparison, others have debatable boundaries<sup>9</sup> – this applies in fact to a larger policy literature.<sup>10</sup> As Tilly<sup>11</sup> once said, “analysts chop continuous streams of social life into episodes according to conventions of their own making”. Thus, we need to be clear about *what we make into an event*. We propose that if we differentiate the key stages involved in external enfranchisement processes, we will be able to compare them on a common ground; we will be able to see a substantial difference between a fully-fledged extension of a right to exercise citizenship and a policy with no effects and no practicability. More than solving fuzziness in comparative research, the bigger promise is to prevent mistaking a process with duration for a punctual event.<sup>12</sup> As a well-known expert of periodization warned, “events with duration must be carefully conceptualized and the meaning of their duration understood”.<sup>13</sup> We want to propose to the literature that enfranchisements are processes with various durations and paths.

Certainly, studies on other kinds of enfranchisement have provided pioneering insights to upgrade enfranchisement to a proper process (in Tilly’s language) and to understand that franchise adoption is not necessarily a single, discrete outcome, but one that involves sequences. In particular, research on women’s suffrage,<sup>14</sup> the enfranchisement of non-citizen immigrant residents,<sup>15</sup> and of prisoners<sup>16</sup> have disaggregated the legislative processes into stages showing enfranchisement in terms of levels of policy success. They all show that enfranchisement processes have their own institutional logic, where each step carries different kinds of consequences for legislators. What we propose here is to extend these works by exploring policymaking

mechanisms beyond the standard legislative procedure and by comparing enfranchisement processes in which the potentially included electorate is absent from the territory and, due to that, has limited means at their disposal to push the process forward.

Thus, rather than asking why states enfranchise their citizens abroad (which has gathered substantial attention in this journal), our related, but different research question is : How come some processes reach a generous enfranchisement reform at once, while others get stuck after initial steps? To answer it we look at processes of enfranchisement of emigrants across Latin America and Caribbean states. We select this region because it has pioneered emigrant enfranchisement, having rich variation of external franchise models and regarding the swiftness of their implementation, from immediate (for example, El Salvador) to a 15-year lag (for example, Brazil).

This article proceeds as follows: First, we conceptualize enfranchisement as a process with three stages. Next, with data collected as part of the Politics Beyond Borders project (GIGA) we explore whether a lag between stages is random or whether it follows a pattern. Then, we develop exploratory hypotheses that propose different kinds of relationships between the regulatory mechanism and the lag. Finally, we explore these hypotheses with five case studies (Argentina, Bolivia, Mexico, Paraguay, and Peru).

### Three stages of non-resident enfranchisement

The conceptualization of external enfranchisement as a one-time event is common in the literature on external voting, just as in the enfranchisement literature more generally.<sup>17</sup> Scholars usually signal only one point in time to refer to external voting rights approval, and then move on to analyse the reasons for adoption –such as the country's dependence on the remittances sent by emigrants,<sup>18</sup> the pressure exercised by new international norms,<sup>19</sup> as a mode of reparation to exiles,<sup>20</sup> or a transition to democracy.<sup>21</sup> In the field of Political Theory scholars proceed similarly: when they weigh the normative concerns of extending the franchise to emigrants (for instance, their lack of information about home politics, their potential lack of stakes in homeland issues, the unpredictability of their voting patterns, or the difficulty to assure the quality of elections abroad) they consider enfranchisement a one-time, discrete phenomenon.<sup>22</sup>

Nevertheless, some scholars have noted that emigrant enfranchisement is not necessarily a one point event. For instance, in their pioneering comparative study of external voting, Nohlen and Grotz already argued that “the introduction of external voting was often not a single act of decision and implementation, but a process lasting for years or even decades”.<sup>23</sup> Calderón also differentiated between the approval of external voting rights in Latin America and the “actual state” of legislation, leaving room to specify if further legislation was needed, or if only the application was pending.<sup>24</sup> In that year, out of 11 countries which she registered as having approved external franchise, 6 were stuck before implementation. Escobar<sup>25</sup> studied variations in timing, sequence, and form in which major Latin American countries allowed dual citizenship and extended political rights to their nationals abroad. In a study of selected cases, she simplified the problem by distinguishing between formal legislation and first electoral participation. However, her two-stage distinction still hid the character of the formal legislation it was a result of. Although she did refer to different causes for a gap in her case studies, she did not problematize that gap in her comparisons. Analyzing the restrictions to enfranchisement in 7 Latin American countries, Lafleur overcame the riddle by registering the year of first democratic external voting experience.<sup>26</sup> For

**Table 1.** The three stages of external enfranchisement.

Stages	Enactment (t1)	Regulation (t2)	Application (t3)
Decisions	Scope of external enfranchisement: <ul style="list-style-type: none"><li>• Active or passive electoral rights</li><li>• Type of election (presidential, legislative, referendum)</li><li>• Level of election (national, regional, local)</li></ul>	Contours of external enfranchisement: <ul style="list-style-type: none"><li>• Voting methods</li><li>• Registration in electoral roll</li><li>• Political competition abroad</li></ul>	Call for elections: <ul style="list-style-type: none"><li>• Polling stations</li><li>• Postal voting organisation</li><li>• Civic education and participation campaigns</li></ul>

Note: Own elaboration.

other regions, a solution has been to distinguish the legal basis for external voting from its implementation.<sup>27</sup>

Instead of doing away with the issue, we seek to understand why it exists. It is not only the mere duration of enfranchisement that matters, but also, as Abbott would put it, it is “the quality of those temporal extensions that differs substantively”.<sup>28</sup> We propose that the adoption of external electoral rights is a process composed of three main stages (see Table 1). The first (t1) is the “enactment” of the electoral rights, which usually requires an amendment of the electoral law or/and of the Constitution. Enactment requires that political elites agree on the importance (and perhaps more accurately, the convenience) of enfranchising non-residents abroad and, understandably, this is the stage that most of the external enfranchisement studies focus on:<sup>29</sup> it is when legislators debate arguments for and against and decide and determine the scope and level (active/passive; national level presidential and/or legislative, subnational levels, etc.) of external voting rights.

The second necessary stage for the adoption of external electoral rights is “regulation” (t2), which includes all the secondary law-making needed in order to hold elections outside the territorial boundaries of the states of origin. It defines the contours of the external electoral system abroad and, therefore, the restrictiveness of external electoral rights on matters such as the inclusion of non-residents in the electoral register, voting methods, modes of representation, provisions for polling stations and even the rules for political competition abroad. This stage still allows legislators to significantly restrict the number of non-residents eligible to participate in elections.<sup>30</sup> An example is the Bolivian government 2009s restriction of external voting to only four cities in the world.<sup>31</sup>

However, it is only the third stage, the final adoption of external franchise (t3), which marks readiness for implementation when the corresponding electoral authority aligns the organization of elections to the new regulations and calls emigrants to cast a ballot from abroad for home elections.

If these stages exist, we might need to understand that the adoption of the external franchise as a dynamic process. To explore this we will turn now to compare processes of external franchise adoption in the LAC region.

**Three stages of external enfranchisement in Latin America and the Caribbean**

Table 2 shows the adoption of active electoral rights in LAC countries. A total of 15 LAC states have extended active electoral rights to non-resident citizens for at least one type of elections. Ecuador and Colombia allow their emigrants to vote in all home elections, while other states only allow emigrants to vote for presidential elections (for example,

**Table 2.** Adoption of external active electoral rights in Latin America and the Caribbean.

Country	Type of election	Year of			No of elections until	
		Enactment	Regulation	Application	Regulation	Application
Argentina	Presidential	1991	1993	1995	0	0
	Lower H.	1991	1993	1993	0	0
	Upper H.	1991	1993	1993	0	0
Bolivia	Presidential	1991	2009	2009	4	4
Brazil	Presidential	1965	1985	1989	4	5
Chile	Presidential	2014	2016	2017	0	0
Colombia	Presidential	1961	1962	1962	0	0
	Lower H.	1991	2001	2002	2	3
	Upper H.	1991	1997	1997	1	1
Costa Rica	Presidential	2006	2009	2014	1	2
Dom. Republic	Presidential	1997	2004	2004	1	1
	Lower H.	2010	2010	2012	0	0
Ecuador	Presidential	1998	2006	2006	1	1
	Lower H.	2006	2006	2007	0	0
El Salvador	Presidential	2013	2014	2015	0	0
Honduras	Presidential	1981	2001	2001	4	4
Mexico	Presidential	1996	2005	2006	2	3
	Upper H.	2014	2014	Not applied	0	–
Nicaragua	Presidential	2012	Not regulated	Not applied	–	–
	Lower H.	2012	Not regulated	Not applied	–	–
Paraguay	Presidential	2011	2013	2013	0	0
Peru	Presidential	1980	1979	1980	0	0
	Lower H.	1992	1992	1992	0	0
	Upper H.	1980	1979	1980	0	0
Venezuela	Presidential	1993	1998	1998	0	0

Note: Own elaboration based on \*\*EMIX Emigrant Policies Index; \*\*Lower H. = Lower House; Upper H. = Upper House.

Bolivia or Paraguay). Furthermore, there are significant variations in the year of enactment of external active electoral rights. Colombia and Brazil stand out as the two countries in the region that first enacted laws aimed at incorporating emigrants into the electorate (1961 and 1965 respectively). Other countries have only recently taken the first steps towards external franchise, with Chile being the latest.

With two different measures we want to highlight the lag between enactment and the second and third stages of the adoption. The first is the number of years lapsed between the three stages of t1, t2, and t3. The second is the number of elections held between t1, t2, and t3. Both show important variations across countries. On the one hand, Argentina, El Salvador or Paraguay did not show any lag -neither measured in years since enactment nor in elections held since enactment). On the other hand, some countries have lagged in the regulation of external electoral rights, letting more than 20 years and 4-5 electoral cycles pass before first application, such as Brazil or Honduras. In the general trend, there is no a significant lag between regulation and the first application –t2 and t3- of electoral rights. Exceptions are Brazil and Costa Rica, where external electoral rights were applied four years (one election) after regulation.

### Understanding external enfranchisement processes: exploratory hypotheses

If franchise extensions were embedded in larger processes of political change, their being whole or truncated could reveal something about those processes. With regard to democratization processes, we hypothesize that the countries that introduced

external franchise after becoming full democracies will have longer external enfranchisement processes (H1). This is because in contexts of democratization, where political controls are still under negotiation, enfranchisements may be part of particular political compromises that involve some laxity about specific details which in times of regime stability may generate lengthier debates.<sup>32</sup>

A factor we find plausible to explain more particularly the varying length of emigrant enfranchisement processes is the legal mechanism to enact it (H2).<sup>33</sup> We see three main variants of such hypothesis (Table 3). The first is that the enactment occurs after a mandatory referendum in which citizens decide whether or not to support the extension of franchise to non-residents. Following literature on policy-making via referendum, we expect that under this scenario governments and legislatures have a popular mandate that may translate into a swifter adoption of this particular policy since it enables the bypass of legislative opposition.<sup>34</sup> We propose that the adoption process of external voting will be expedited if it is the result of a confirmatory and binding referendum (H2a).<sup>35</sup> The second variant is that external electoral rights are part of a newly enacted constitution, as it usually occurs in (re-)foundational moments in a democratization scenario.<sup>36</sup> We expect that such scenario poses a less direct mandate, as external voting regulation falls both below the level of attention of other issues that are likely to have priority for political and civil society actors (for example, the rules and organization of elections for the domestic electorate) and below the level of abstraction that defines primary norms of constitution-making.<sup>37</sup> Thus, we expect that this legal mechanism will lead to lagged enfranchisement processes (H2b). Finally, the third variant refers to an ordinary constitutional amendment or a new electoral law carried out by the legislative power. As economists and legal theorists note, sequential law-making is prone to lags, especially when a delay promises more rewards than swift completion.<sup>38</sup> Subordinated to this hypothesis -and connecting our argument to the arguments made to explain the very adoption of external voting-,<sup>39</sup> we propose that the length of the enfranchisement process via ordinary law-making will depend on the expectations that political groups represented in the legislature at the moment of enactment have regarding the political benefits (and costs) of extending the suffrage to emigrants. Political groups that expect to increase their total share of votes will be more prone to expedite the adoption process, and vice versa. For this reason, we propose that a greater legislative consensus regarding external voting will translate into a swifter adoption process, since the power of opposition groups to hinder it is reduced (H2c). To explore this we will consider the political contestation and the stability of political coalitions across legislative periods.

**Table 3.** Hypotheses.

Hypothesis	Lag in the external adoption process?
<i>H1: Adoption after becoming full democracy</i>	
Yes	Lag increased
No	Lag abridged
<i>H2: Policymaking routes</i>	
Referendum (H2a)	No
New Constitution (H2b)	Yes
Legislative change (with fragmented legislative) (H2c)	Yes
Legislative change (without fragmented legislative) (H2c)	No

Note: Own elaboration

**Table 4.** LAC countries with external enfranchisement by policymaking route for enactment and presence of a lag.

Lag	Referendum	Electoral law	New constitution
Yes		Brazil Costa Rica <i>Mexico</i>	Bolivia <i>Honduras</i> Ecuador
No	Paraguay	<i>Argentina</i> Chile <i>Colombia</i> Dominican Republic Venezuela	<i>Peru</i>

Note: Own elaboration. Nicaragua is not included in the case selection because, by the time of writing, they have not yet concluded their process of adoption. Countries that enacted external voting in a context of democratization are written in italics.

## Case selection

In order to try our hypotheses in cases of various outcomes (our dependent variable is enfranchisement as a process that may lag) and with maximum variation regarding the main variables considered we have opted for a “diverse cases” selection strategy.<sup>40</sup> We introduce variation into the enfranchisement process outcomes by studying two countries with a lag between enactment, regulation and first implementation (Mexico and Bolivia) and three countries without a lag (Argentina, Paraguay and Peru). We include in our sample cases that adopted non-resident franchise in a context of democratic freedoms and institutions (Paraguay and Bolivia) and others that did so during a process of democratization (Argentina, Mexico and Peru). Furthermore, we study two countries that extended electoral rights to non-residents via ordinary law-making (Mexico and Argentina), two countries that did it through a new constitution (Bolivia and Peru) and the only country in our sample that introduced external voting after a referendum (Paraguay). Finally, the cases selected also present variation regarding their dependence on remittances (Peru and Bolivia with a high dependency; Argentina, Paraguay and Mexico with low dependency), the moment of the extension of suffrage (Peru being an early adopter in the region and Paraguay and Bolivia as recent cases) and the level of concentration of the diaspora abroad (Mexico being a case of high concentration and the others having a more disperse diaspora) (Table 4).

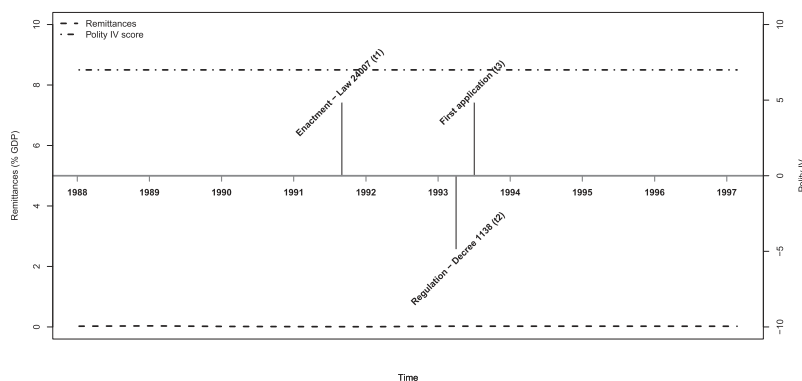
## Case analyses

### *Argentina: a change in the electoral law that leads to a fast adoption process*

Argentina allows its emigrants to vote actively in executive and legislative national elections, but does not allow voting in subnational elections despite being a federal state. To vote, Argentines abroad must go in-person to booths in any of the 155 consulates in 87 countries after registering at least six months before the election (data from 2015). This is automatically renewed for every election thereafter. The Argentine parliament has four-year long periods, renews its half every two years and has sessions from March until November.

Argentines abroad were enfranchised in November 1991 by Law 24,007 (Figure 1) through an ordinary legislative process. There was no lag in the adoption process, as the two necessary steps were swiftly accomplished within two years between approval





**Figure 1.** Argentina's external voting adoption process.

Note: Own elaboration. Left axis represents remittances (World Bank, Personal Remittances received as a percentage of GDP). Right axis represents Polity IV indicator.

and first application. The enactment in 1991 had been possible after just two attempts in 1986 and 1988, at which the proposals stranded in limbo. The process before enactment (t1) saw through six legislatures, including a period of extreme economic distress and an episode of democratization with factionalisms from 1983 to 1989.<sup>41</sup> In comparison to the length of t1, the necessary steps for the regulation (for instance to create a new electoral registry for residents abroad) were taken swiftly through two legislatures: the Decree 1138 of June 1993 passed in a legislature with nearly the same composition as the previous one. This Decree allowed external voting to be applied in October the same year, to renew half of the legislature.

The legislative proposal entered the Senate in July 1991 after being presented by the executive, President Menem, from the *Partido Justicialista* (PJ). In this legislative period, the Argentinian Lower House was characterized by a low fragmentation and a low effective number of parties (two parties, the *Partido Justicialista* and the *Unión Cívica Radical* accounted for 83% of the total seats). Also under the presidency of Menem, the regulating Decree was approved by the next legislature, in which the balance of seats remained almost the same. The enfranchisement of Argentines abroad was an issue that enjoyed ample political support: previous proposals had been made by the UCD representatives and had gathered consensual support in the Senate, yet stranded in a legislative limbo merely due to the much more pressing and divisive issues in a country submerged not only in a fierce and recurrent economic crisis but also in a political transition from the military dictatorship. According to some researchers,<sup>42</sup> the democratization context explains the broad agreement on this extension of rights, as it resonated with the promotion and restoration of human and civil rights. It was also a symbolic means of making amends to Argentines in exile. Moreover, in a context of democratization through electoral means, extensions of electoral rights served as a source of legitimacy for the new regime.

The low proportion of Argentines abroad in the voting population could have made this a negligible (non-controversial) issue, but the exact number of emigrants has been difficult to calculate, oscillating between one and three million, with a high percentage of highly qualified emigrants.<sup>43</sup> In the 1990s, economic crises sparked emigration from middle classes with middle and higher education profiles, but the overall profile of the

diaspora is quite diverse.<sup>44,45</sup> As a result of this profile, remittances have not been key to the Argentine economy, averaging only 30.6 US million in the five years between 1982 and 1987 (equivalent to less than 0.08% of the GDP),<sup>46</sup> the period in which electoral rights for emigrants began to be discussed. Diaspora mobilization does not seem to be key to explaining the length of the adoption process either, although Argentine emigrants have recently formulated demands for an expansion of voting methods as well as for more transparency and timely information regarding elections.<sup>47</sup>

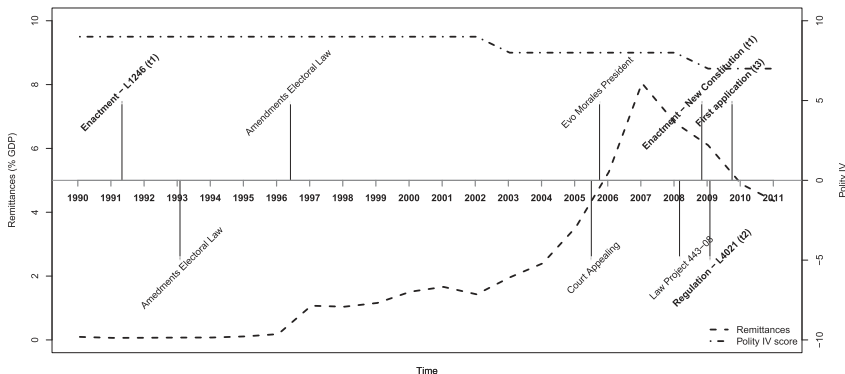
In Argentina, thus, the extension of suffrage to emigrants was carried out swiftly during a period of democratization (confirming H1). Although external voting was introduced by an ordinary legislative change, the time lag was minimal due to a broad legislative consensus around it (supporting H2).

### ***Bolivia: a process of twofold adoption***

Bolivia allows non-residents to participate in presidential elections as well as in national referenda, but not in legislative elections. Bolivians abroad can vote in the polling stations designated by the electoral authority. In the first elections in which Bolivians abroad were able to vote (2009), polling stations were opened in only four countries. In the 2014 elections, this number increased to 33. The registration in the electoral roll is voluntary and is updated automatically.

The adoption of external franchise in Bolivia lagged over a long period (Figure 2): external voting was enacted in 1991, but only applied in 2009. To understand why Bolivian emigrants had to wait almost 20 years to exercise their right to vote in homeland elections, we need to distinguish between two consecutive adoption processes of external enfranchisement. The first started with the enactment of a new Electoral Law under the presidency of Jaime Paz Zamora in 1991 and lasted until 2006, when Evo Morales became president and his political movement won the majority of the seats in the Bolivian Lower House.

The electoral law passed in 1991 established that non-resident citizens could participate in presidential elections and mandated the legislature to regulate the specificities of external voting. Over time, this electoral code was amended on two occasions (1996 and 1999) and, although provisions about external voting were kept, external voting was



**Figure 2.** Bolivia's external voting adoption process.

Note: Own elaboration. Left axis represents remittances (World Bank, Personal Remittances received as a percentage of GDP). Right axis represents Polity IV indicator.

neither regulated nor applied. This first adoption process bore no concrete outcome. During this period, the Bolivian party system was characterized by a moderate fragmentation, a moderate number of effective parties, low polarization and a centripetal competition across political forces.<sup>48</sup> Despite collaboration across the three main political forces (materialized in the form of government and parliamentary coalitions) and the intervention of the judiciary,<sup>49</sup> it was impossible to reach a consensus regarding the regulation of external voting (lending support to our Hypothesis 2a).

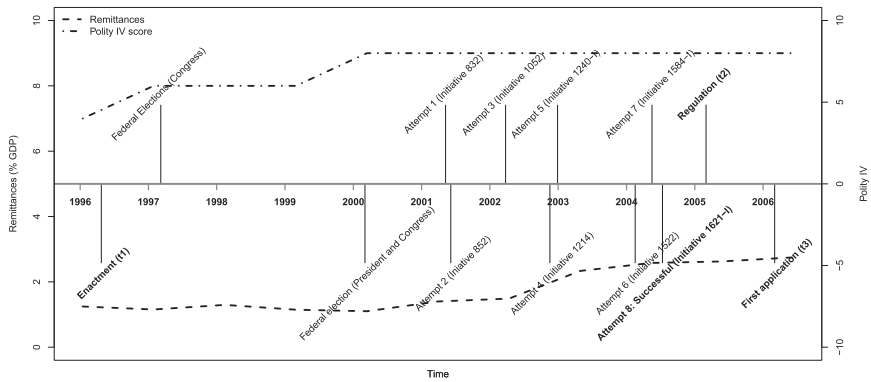
The second process of external enfranchisement in Bolivia (and the one that has captured the most scholarly attention) started with a significant shift in the distribution of power following the 2005 elections and leading to a new constitution approved in 2009. Since 2005 the Bolivian political party system has been characterized by a minimum number of effective parties and a low fragmentation. Furthermore, external voting became a political priority for the government of Evo Morales.<sup>50</sup> In 2008 Morales tried to pass a law to regulate it, but this attempt was stopped in the Bolivian Senate, where Morales's party did not hold a majority.<sup>51</sup> Despite the significant political and social pressure exercised by Morales and a mobilized diaspora (mostly in Argentina), it was not until 2009 (after the approval of the new constitution) that an agreement between government and opposition on external voting was reached. Interestingly, it was between 2007 and 2009 that the remittances sent over by emigrants reached their peak, equivalent to more than 6% of the GDP.<sup>52,53</sup> The regulation of external franchise was included in a transitional electoral law (Law N° 4021) that was meant to regulate the general elections of 2009. This law significantly restricted the participation from abroad, limiting the registry of emigrants to a maximum of 6%<sup>54</sup> of the total Bolivian population.

The Bolivian two-fold adoption process offers interesting evidence regarding our hypotheses. On the one hand, since the enactment of external voting in Bolivia took place in a context of stable democracy, we expected to observe a significant lag. This was indeed observed in the first adoption process (supporting H1); but not in the second. Probably because, during the second process of adoption, Bolivia was also embarked in a process of profound political change (supporting H1). On the other hand, the first adoption process, initiated with an ordinary law, did not concluded due to the lack of political consensus (supporting H2c); but the second process, started with a new constitution, was completed successfully without a lag (contradicting, thus, H2b).

### ***Mexico: a long lag induced by political contestation***

Mexicans abroad can vote for presidential and legislative elections, per post, registering actively for each election. After several reforms this keeps being an overly complicated process which meant, for the recent July 2018, that only about 100,000 Mexican emigrants out of an estimated eligible diaspora of 4–5 million voted from abroad.

It took more than a decade for Mexican emigrants to get the vote (Figure 3) in a process of ordinary legislation. External franchise was first enacted in a package of electoral reforms in 1996,<sup>55</sup> widely recognized as pivotal to a slow process of democratization that had started two decades earlier.<sup>56</sup> Yet, the regulation needed for implementation was passed only in 2006, after seven failed attempts across three legislatures. Despite a low number of parties and low fragmentation in the legislature throughout the period, building a political consensus in this period was difficult under a regime of increasing competition and seems central to explain why the regulation required took so long to materialize.



**Figure 3.** Mexico's external voting adoption process.

Note: Own elaboration. Left axis represents remittances (World Bank, Personal Remittances received as a percentage of GDP). Right axis represents Polity IV indicator.

Though Mexico has become a major transit and return country today, back in 1996, when external voting was enacted, its migration profile was primarily defined by emigration of persons of primarily a lower-skill level, who made Mexico the world's top receiver of remittances.<sup>57</sup> In such context, debates around the symbolic importance of emigrants and their contributions to their families' social well-being at home held sway. Still, in contrast to other countries in Central America and the Caribbean, the relative weight of remittances in the Mexican economy has only ever reached a level equivalent to 3% of the GDP at its peak, making it implausible to say that its economy depends on these cash inflows (World Bank 2016). More significantly, besides a well-organized and sizeable diaspora (at roughly 10 million in the late 1990s), the Mexican state had created multi-level bureaucratic bodies to establish links with and develop policies for its diaspora, the most important of which was the IME (Instituto de los Mexicanos en el Exterior).

Precisely for its importance as a prominent and pioneer case of emigrant policies, the Mexican external enfranchisement has been studied by many experts. Payán and Schober<sup>58</sup> considered 10 different variables to explain why the regulation only succeeded on the eighth attempt. Since the trajectory of those attempts extends from 1996 to 2006, a more detailed explanation is needed to trace the factors that intervened until it was finally approved in the 59th legislature. An obvious one is the composition of the legislatures (57th–59th); although it was very different each time, after 1997 no party had an absolute majority in it, and the party that supported external voting most consistently (but not the only one to propose it) was only the 3rd force through this period (Partido de la Revolución Democrática, PRD). Overall, the constellation of actors in favour and against in the period was mixed. It is clear that the *Partido Revolucionario Institucional* (PRI) was generally against external voting. The PRI had held power when emigrant enfranchisement was enacted and until 2000, when peaceful alternation in the office of the president took place after 71 years of PRI-rule, and expected that emigrants would favour the opposition –which has turned out to be true.<sup>59</sup> It is less clear why the independent electoral authority *Instituto Federal Electoral* (IFE) resisted. IFE's centrality in assuring transparent and reliable elections has been highlighted by observers of the Mexican transition to democracy,<sup>60</sup> and some have hypothesized it was politically motivated to oppose external voting. However, in a

context of slowly expanding pluralism, the IFE served as the only guarantor of free and reliable elections and its suspicions regarding their impossibility to ensure that votes from abroad could meet the same requirements as votes cast in Mexico must not necessarily be read as meant to block emigrant participation. Rather, they echoed doubts held also even within the parties proposing it. On the other side migrant associations pressed politicians to legislate on this matter since the early 1990s, as Calderón Chelius' (2010), Ayón's<sup>61</sup> and Lafleur's<sup>62</sup> accounts all highlight. Their pressure was potentiated by the executive: the first president after alternation, Vicente Fox, promised emigrants to oversee that voting from abroad would come true.

In their account, Payán and Schober not only consider each attempt as discrete event comparable to each other, but – inspiringly- observe that over time pressure builds, until *timing* can become a definitive factor to push parties out of gridlock. In 2004 Fox instigated consultations between the three main political parties, the electoral authority and IME. These consultations were led by the Ministry of Home Affairs, as IME rose as emigrants' spokesperson to keep close track of each deputy's position. Still after these consultations two other law initiatives would fail. In the end, it was timing that did it: a generous proposal of external vote regulation was hurriedly approved by 391 votes in favour, 22 abstentions and 5 votes against, with the confidence that the Senate would revise it.<sup>63</sup> Facing political pressure from the PRI, public concerns raised by IFE and the newly founded Electoral Court<sup>64</sup> the Senate then severely restricted the scope of the franchise, allowing only postal voting under strict authentication conditions. The regulating law passed with 91 votes in favour, 2 against and 1 abstention, and promulgated in June 2005 after returning to the Deputies Chamber to gather final 455 votes in favour, 6 against and 6 abstentions.<sup>65</sup>

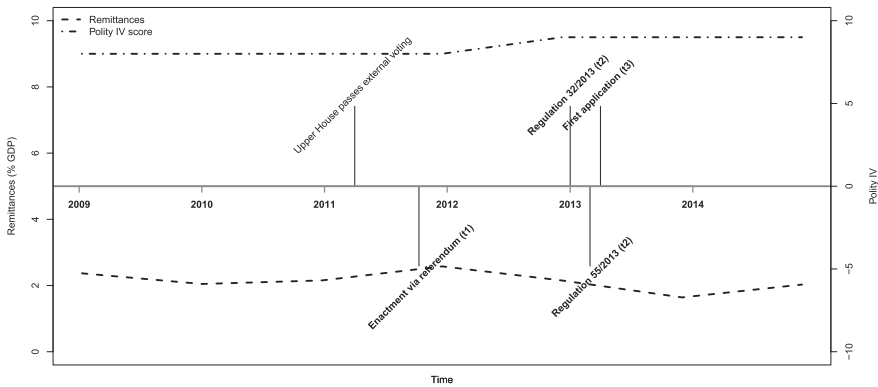
Thus, Mexico shows supporting evidence for H1 and H2c in the sense that the course of ordinary legislation tends to take the longest (H2c) especially when embedded in a stepwise democratization process (H1) that lacks re-foundational stages such as new constitutions and where a stable political majority in the legislative is lacking.

### **Paraguay: adoption by referendum**

Since 2011, Paraguayan nationals abroad are allowed to participate in presidential elections, as well as in the elections for the Senate and the MERCOSUR parliament. Although registration to vote is automatic, Paraguayan emigrants can only vote from the consulates of three countries (Argentina, Spain and United States).

Paraguay is a case in which external voting was introduced after a referendum, with no lag between enactment and the first application (Paraguay enacted external voting in 2011 and applied it for the first time in 2013). In June 2010, the Constitutional Affairs committee of the Paraguayan lower house introduced a proposal to amend the constitution in order to grant non-resident citizens the right to vote in homeland elections (Figure 4). In order for a constitutional amendment to pass, first it had to be approved by the majority of the two Paraguayan legislative houses and additionally be ratified in a referendum. In April 2011, the Paraguayan Senate voted unanimously in favour of the amendment and mandated the electoral authority (*Tribunal Superior de Justicia Electoral, TSJE*) to call for a referendum within six months.

The referendum was finally organized in October 2011. External voting was favoured by 77.4% of the votes and a turnout of 12.5% of the electoral roll. The regulation of non-resident voting swiftly materialized. During 2013, the electoral authority issued the



**Figure 4.** Paraguay's external voting adoption process.

Note: Own elaboration. Left axis represents remittances (World Bank, Personal Remittances received as a percentage of GDP). Right axis represents Polity IV indicator.

regulations needed to implement external voting (Regulation 32/2013 and Regulation 55/2013) and in April 2013, Paraguayans abroad were able to vote for the first time in homeland elections. The 2008–2013 legislature in Paraguay was characterized by a low fragmentation and a low effective number of parties,<sup>66</sup> which helps to understand why consensus was possible. Paraguay dependence on remittances in that period was low and it did not play a role in the process of adoption.

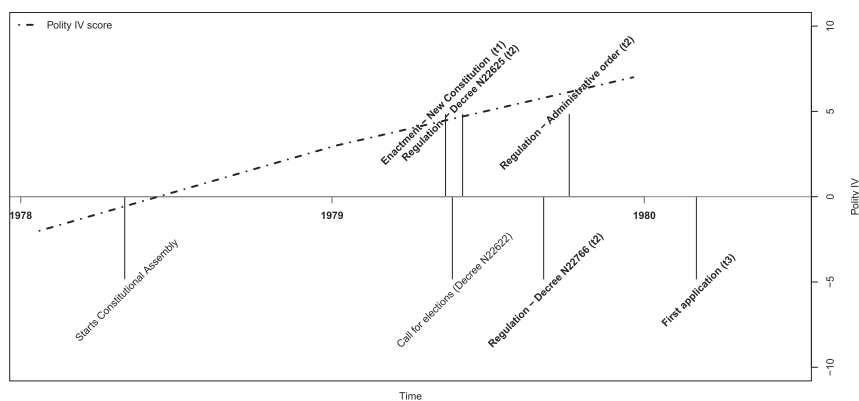
The Paraguayan shows evidence that contradicts H1: despite the adoption of external voting was conducted in the context of a stable democracy, the process was rather agile. The evidence gathered indicates that this was probably because, in line with H2a, external voting was enacted by a confirmatory referendum.

### **Peru: early adoption with ample political consensus**

Peru was one of the first countries in Latin America that enfranchised its non-resident citizens by means of a new constitution and in which there is no lag in the adoption process. External voting was enacted with the Constitution of 1979 and applied in May of 1980, the first election thereafter (Figure 5). Currently, Peruvians abroad can vote in national referenda and national elections (presidential and legislative). Registration for the franchise is automatic and, to cast the ballot, non-resident Peruvians must go in person to their embassies or consulates.

It is important to consider the legal and political context of democratization in which external voting was approved: it was incorporated by a Constitutional Assembly elected in 1978 whose main mandate was to write the new democratic Constitution. The Assembly was voted in June of 1978 and, although none of the parties gained an absolute majority of the seats, it was not significantly fragmented (that is, the effective number of parties was 4.4 and the fragmentation index 0.8).

External voting was introduced in Peru through the article of the constitution that regulated suffrage (art. 65). This article established that all Peruvians citizens over 18 had the right to vote, without further specifications. The debates that took place in the Constitutional Assembly about suffrage reveal that there was a wide consensus among representatives about the normative imperative of incorporating all Peruvians,



**Figure 5.** Peru's external voting adoption process.

Note: Own elaboration. Right axes represents Polity IV indicator. No information about remittances for period of analysis.

including non-residents, into the political process, and especially into the elections. The only issues that raised questions among representatives were related to the regulation of external voting that was meant to be carried out by the electoral administration (*Jurado Nacional de Elecciones*). Specifically, issues such as voting methods from abroad (in order to avoid fraud), the type of elections in which non-resident Peruvians would participate as well as the mode of representation or the question of mandatory voting were brought up during the Constitutional deliberations. In addition, some representatives (for example, Cáceres Velázquez) raised concerns about the plausibility of implementing external voting in the elections of 1980 due to the tight time frame between the enactment and its implementation. The Constitutional Assembly decided, nevertheless, to reserve any statement on the specific regulation of external voting, agreeing that was among the competences of the electoral authority (making this, indeed, explicit in a transitional provision). Days after the enactment of the constitution (and, thus, external voting), the President of the Republic, Morales Bermúdez, called the elections that would be held in May 1980 (Decree No. 22622). The elections were regulated by the Electoral Statute of 1962 (Decree-Law No 1420) with the modifications included in the transitional provisions of the 1979 Constitution and the specific regulation decreed by the government and the electoral authority. The electoral authority dictated the regulations for external voting with an administrative order published in December 1979. With this order they managed to regulate everything required to hold the elections outside the Peruvian territorial boundaries (for example, registration, voting methods, mode of representation).

It is worth pointing out that during the military regime (1968–1980), Peruvian emigration was not as significant as in the following decades (Banco Mundial 2017).<sup>67</sup> In this sense, it seems that the emigrant community or their remittances did not play a crucial role in external voting adoption process. In fact, during the constitutional deliberations none of these issues were spoken about.

The evidence offered by the Peruvian case shows that the adoption of external voting was more conditioned by the context of democratization (in line with H1), than by the legal mechanism of adoption since Peru introduced external voting with the enactment of a new constitution and it managed to complete the external adoption process in only one year (therefore, contradicting H2b).



**Table 5.** Adoption of external voting: summary of findings.

Hypothesis	Argentina	Bolivia	Mexico	Peru	Paraguay
Democratization (H1)	Supports	Supports	Supports	Supports	Contradicts
Mechanism (H2)	Supports	Mixed <sup>a</sup>	Supports	Contradicts	Supports

Note: <sup>a</sup>Due to within-case variation. Source: Own elaboration.

## Case comparison conclusions

Having explored two hypotheses regarding the effect of the democratization scenario and the mechanism of enactment on the enfranchisement process of non-residents, we conclude, first of all, that to understand how enfranchisements occur it does not suffice to rely on indicators of democratization indices, but it is necessary to look at the dynamics of political contestation as a regime opens. Second, we found that the policymaking routes used to extend the franchise are a good indicator of these dynamics. Third, our analysis also reveals an interesting finding: under the mechanism of ordinary law-making, as shown by the Argentinian case, a low level of contestation around external voting enhances an expedite process. On the contrary, a high level of contestation hinders the adoption process, especially if the configurations in the legislatures change after enactment. This is clearly observed in the Mexican and the Bolivian cases (in its first intent of adoption). Finally, a tangential factor that emerged as relevant is the support from the presidential office, which we did not propose as a hypothesis – since we had no variation of political systems (that is, parliamentary) to explore in the region-, but which we would propose for further studies to consider (Table 5).

## General conclusions

While the adoption of external voting, like other types of enfranchisement, has been often conceptualized as a one-time event, here we proposed that it is best thought of as a process with duration and sequence. To understand why many enfranchisement reforms get stuck in shallow, non-applicable reforms, we think it is relevant to understand their constitutive parts. We analysed emigrant enfranchisement, a late, very widely adopted form of enfranchisement across democracies; as a dynamic process that comprises three stages: enactment, regulation, and application. To develop our theoretical propositions into exploratory hypotheses, we first mapped the adoption process of external voting in 22 Latin American and Caribbean countries and showed that a noteworthy lag exists between enactment and application in over half of the countries that gave emigrants the right to vote. Our findings from that exercise revealed intriguing patterns: we found that the weighty lags occur between enactment and regulation; not between regulation and first implementation. This finding is important for a larger literature beyond emigrant voting: a careful understanding of the key components of enfranchisement processes can help us understand why they vary. While it is clear that the dynamics of political contestation are decisive in leading some processes seamlessly to completion or blocking them, it is only by differentiating its sequence and stages that are we able to say where in the process such contestation seems to be decisive. Following classics of comparative political institutions, we developed hypotheses on the effect of the policy-making route on the process expediency, considering that different legal mechanisms of enactment provide variable opportunities for contestation, making processes more or less vulnerable to delays. Our



findings suggest that these explorative hypotheses are plausible, but their validation will require further testing. Thus, we encourage qualitative and quantitative researchers in the larger literature on enfranchisement to keep exploring this issue. On the one hand, qualitative researchers can strive to introduce dynamism into their treatment of enfranchisement (that is, upgrade them from events to processes) by differentiating its stages; with sensitivity to process as they follow how political actors negotiate, frame and battle for or against enfranchisement. On the other hand, quantitative research can strive to systematically observe the stages and policy-making paths to make their analyses more comparable.

## Notes

1. Caramani and Grotz, "Beyond Citizenship and Residence?" 779.
2. Beckman, "Who Should Vote?"
3. Beckman.
4. Caramani and Grotz, "Beyond Citizenship and Residence?"
5. Rhodes and Harutyunyan, "Extending Citizenship to Emigrants," 488.
6. We look at the legal completeness of enfranchisement as policy output. This is not to be equated to the typical understanding of implementation, referring to how a policy output/law is applied or the fit of an organizational setting for its application Hjern and Hull, "Implementation Research as Empirical Constitutionalism"; Matland, "Synthesizing the Implementation Literature."
7. Turcu, "Reactive Limits to Diaspora Enfranchisement Policies."
8. Emmerich and Carrera Barroso, "Sufragio Transnacional: Votantes Argetinos, Ecuatorianos, Peruanos y Venezolanos En México, 2011–2013"; Caramani and Grotz, "Beyond Citizenship and Residence?"
9. Clemens, "Toward a Historicized Sociology."
10. Sabatier, "Top-Down and Bottom-Up Approaches to Implementation Research."
11. Tilly, "Mechanisms in Political Processes," 26.
12. Beckman 2008.
13. Abbott, "Event Sequence and Event Duration: Colligation and Measurement," 196.
14. King, Cornwall, and Dahlin, "Winning Woman Suffrage One Step at a Time: Social Movements and the Logic of the Legislative Process."
15. Pedroza, "Citizenship before Nationality," 20.
16. Dzehtsiarou, "Prisoner Voting Saga. Reasons for Challenges."
17. The larger literature on suffrage extensions hypothesized all kinds of causes from structural conditions based on political economy theories Sokoloff and Engerman, "The Evolution of Suffrage Institutions in the New World.", to power constellations modelled as games Jack and Lagunoff, "Dynamic Enfranchisement.", or contestation threats in declining legitimacy regimes Acemoglu and Robinson, "Why Did the West Extend the Franchise?". These standard theories to explain extensions of the franchise have been supplemented by explanations that not necessarily rest on the insurrectionary potential of the disenfranchised population, as this factor makes little sense for small groups that do not pose a great threat to regime viability Lizzeri and Persico, "Why Did the Elites Extend the Suffrage?". Still, irrespective of the causal mechanism considered, all these theories assume enfranchisement is a single moment event. Przeworski's historical analysis of suffrage extensions is an exception, as he distinguished the enactment from the implementation of suffrage, but he did not theorize this gap "Conquered or Granted? A History of Suffrage Extensions," 319., much like the non-resident enfranchisement literature did away with the issue.
18. Erlingsson and Tuman, "External Voting Rights in Latin America and the Caribbean."
19. Rhodes and Harutyunyan, "Extending Citizenship to Emigrants."
20. López-Guerra, "Should Expatriates Vote?"
21. Lafleur, "The Enfranchisement of Citizens Abroad."
22. Rubio-Marin, "Transnational Politics and the Democratic Nation-State"; Bauböck, "Stakeholder Citizenship and Transnational Political Participation"; López-Guerra, "Should Expatriates Vote?"; Pogonyi, "Four Patterns of Non-Resident Voting Rights."

23. Nohlen and Grotz, "External Voting: Legal Framework and Overview of Electoral Legislation," 1123.
24. Calderón Chelius, "Votar En La Distancia, Experiencia de Una Ciudadanía En Movimiento," 41–3.
25. "Extraterritorial Political Rights and Dual Citizenship in Latin America," 58.
26. "The Enfranchisement of Citizens Abroad," 850.
27. Hartmann, "Expatriates as Voters?"
28. "Event Sequence and Event Duration: Colligation and Measurement," 196.
29. For example, Rhodes and Harutyunyan, "Extending Citizenship to Emigrants."
30. Hutcheson and Arrighi, "Keeping Pandora's (Ballot) Box Half-Shut"; see Turcu, "Reactive Limits to Diaspora Enfranchisement Policies" for re-regulation.
31. Hinojosa et al., "Surgimiento y desarrollo del voto en el exterior" en el proceso de cambio boliviano."
32. Schmitter and Karl, "What Democracy Is. . . and Is Not."
33. This venue of research could be related to Lizzeri and Persico (2004)'s exploration of two mechanisms: 1. via referendum or 2. via parties who propose reform. As those mechanisms are not exactly of the same kind, we propose to sharpen the lens on the legal procedure.
34. Breuer, "Policymaking by Referendum in Presidential Systems"; Breuer, "Institutions of Direct Democracy and Accountability in Latin America's Presidential Democracies"; Altman, *Direct Democracy Worldwide*.
35. There are different types of referendums see for instance Hug, "Occurrence and Policy Consequences of Referendums." For hypothesis H2a we refer only to those that are mandatory for adopting external voting and the result of which is binding.
36. Linz and Stepan, *Problems of Democratic Transition and Consolidation*; Elkins, Ginsburg, and Melton, *The Endurance of National Constitutions*.
37. Thornhill, *A Sociology of Constitutions*.
38. Parisi et al., "The Value of Waiting in Lawmaking."
39. Lafleur, "Why Do States Enfranchise Citizens Abroad?"; Collyer, "A Geography of Extra-Territorial Citizenship"; Hutcheson and Arrighi, "Keeping Pandora's (Ballot) Box Half-Shut."
40. Gerring, "Case Selection for Case-Study Analysis."
41. Marshall and Gurr, "Polity IV Regime Trends: Argentina, 1946–2013."
42. Calderón Chelius, "Votar En La Distancia, Experiencia de Una Ciudadanía En Movimiento," 57–9.
43. Chávez Ramos, "La Experiencia Argentina Del Voto En El Exterior: Los Ciudadanos Migrantes," 72.
44. Texidó, "Perfil Migratorio de Argentina - Informe Final," 8.
45. World Bank data for this period confirms this, revealing a tepid descent of net migration of 139,999 in 1982 to 29,999 in 1992 Banco Mundial, "Migración Neta | Data."
46. Banco Mundial.
47. Emmerich, "El Sufragio Transnacional En Argentina: Problemas y Posibilidades."
48. Torrico, "Bolivia"; Mayorga, "La Crisis Del Sistema de Partidos Políticos: Causas y Consecuencias. Caso Bolivia."
49. In 2005, the Corte Superior de Justicia de La Paz accepted an appeal of Bolivians residents in Argentina and mandated the national legislature to enact a law to regulate external voting. This intent of regulating the external voting provisions contained in the electoral code did not succeed Hinojosa, Domenech, and Lafleur, "Surgimiento y Desarrollo Del" Voto En El Exterior" En El" Proceso de Cambio" Boliviano."
50. Hinojosa, Domenech, and Lafleur, 49.
51. Hinojosa, Domenech, and Lafleur, "Surgimiento y Desarrollo Del" Voto En El Exterior" En El" Proceso de Cambio" Boliviano."
52. Secretaría General de la Comunidad Andina, "Informe Anual 2012: Estadísticas de Remesas En La Comunidad Andina."
53. This represents a significant increase in comparison with the early 2000 when remittances represented less than 2 points of Bolivian GDP.
54. Art. 47 Law N° 4021.
55. González Martín, "Comentarios Al Artículo 36 Constitucional: Especial Referencia Al Derecho Al Voto Del Mexicano En El Extranjero," 36.

56. Merino, "México: La Transición Votada."
57. Adida and Girod, "Do Migrants Improve Their Hometowns?"; Durand et al., "Migradollars and Development."
58. "A Brincos y Sombrerazos: La Gestión Política Del Voto Mexicano En El Extranjero En La Cámara de Diputados," 153.
59. Though it might be tempting to assume that given a relatively poor diaspora with a lower-skill composition the PRD was simply gauging electoral gains, the work of several researchers shows that the political preferences of the Mexican emigrants are not that easily explained, though there is clearly an anti-PRI drive Paarlberg, "Diaspora Outreach by Latin American Parties"; Meseguer and Burgess, "International Migration and Home Country Politics." In general, the rates of electoral participation by Mexican emigrants have been extremely low due to technical hurdles to exercise the vote.
60. Schedler, "Distrust Breeds Bureaucracy."
61. "Taming the Diaspora: Migrants and the State, 1986–2006."
62. Lafleur, "Why Do States Enfranchise Citizens Abroad?"
63. The breadth of the originally approved provisions is stunning. Some of these would only be paralleled by the recent reform of 2014 (for example, the possibility of getting a voter ID- necessary for voting--issued abroad) and others remain controversial until today (for example, the possibility of campaigning abroad).
64. Becerril, "Deber de Los Senadores, Garantizar Voto Libre y Secreto En El Exterior: Bartlett."
65. IFE, "Informe Voto de Los Mexicanos En El Exterior 2006 Tomo I Capítulo 1."
66. Cerna Villagra, "La Senda Del Outsider: Factores Que Explican La Emergencia de Candidatos Exógenos Al Sistema de Partidos En Perú y Paraguay."
67. We could not find comparable data on remittances in Peru during the adoption period, 1979–1980.

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